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Letter dated 5 May 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 7 November 2002 (S/2002/1227).

The Counter-Terrorism Committee has received the attached supplementary report from Antigua and Barbuda, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 1 May 2003 from the Permanent Mission of Antigua and Barbuda to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Antigua and Barbuda to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee of the United Nations and has the honour to respond to the latter's note of 4 February 2003.

The Permanent Mission has the honour to submit to the Counter-Terrorism Committee the follow-up report for Antigua and Barbuda (see enclosure).

Enclosure

Follow-up report of Antigua and Barbuda on measures for the prevention of terrorism and terrorist financing

RESPONSE TO COMMENTS/QUESTIONS OF THE COUNTER-TERRORISM COMMITTEE

Subparagraph 1(a):

Antigua and Barbuda working closely with the Commonwealth Secretariat, in February 2003, hosted the Caricom Conference on Terrorism Legislation. One outcome of that exercise is that Antigua and Barbuda is now in the process of drafting a new comprehensive Act on the prevention of terrorism. This Act will be based on the Commonwealth Model Bill on Terrorism, and will repeal the Prevention of Terrorism Act 2001. Provisions for monitoring by supervisory bodies of transactions suspected of terrorist links and the exchange of such information with foreign authorities will be included in the new Act. Provisions for the exchange of such information with foreign authorities is proposed as follows:

Exchange of Information Relating to Terrorist Groups and Terrorist Acts

1. The Supervisory Authority may, on a request made by the appropriate authority of a foreign state, disclose to that authority, any information in his or her possession or in the possession of any other government department or agency, relating to any of the following—

   (a) the actions of movements of terrorist groups or persons suspected of involvement in the commission of terrorist acts;

   (b) the use of forged or falsified travel papers by persons suspected of involvement in the commission of terrorist acts;

   (c) traffic in explosives or other lethal devices or sensitive materials by terrorist groups or persons suspected of involvement in the commission of terrorist acts;

   (d) the use of communication technologies by terrorist groups;

   if the disclosure is not prohibited by any provision of law and will not, in the Supervisory Authority's view be prejudicial to national security or public safety.

Subparagraph 1(b):

The Prevention of Terrorism Act 2001 does not criminalize the willful collection and provision of funds and other assets with the intention that they will be used for the financing of terrorism. The Prevention of Terrorism Act 2001 was passed into law within 3 months of September 11, 2001. At that time the focus was on preventative measures against financing terrorism. However, it was realized at that time that there would be a need in future to augment and enhance the provisions of the Act. Work is presently under way to draft and implement the provisions necessary to comply with the recommendations of subparagraph 1(b) using the Commonwealth Model Bill on Terrorism. The Bill will contain the following provisions:

Provision or Collection of Property to Commit Terrorist Acts

1. Every person who —

(a) provides,
(b) collects; or
(c) makes available

by any means, directly or indirectly, any property, intending, knowing or having reasonable grounds to believe that the property will be used in full or in part to carry out a terrorist act commits an offence and shall on conviction be liable to imprisonment for a term not exceeding (10) years.

There are no direct provisions under the Prevention of Terrorism Act 2001 prohibiting individuals and entities other than banks and financial institutions transacting business with terrorist persons or entities. The issue could be addressed at present by treating the issue as one of possession or control of funds or other assets in which a terrorist or terrorist organization has an interest, on the assumption that to transact business involving terrorist property one must at some point have possession or control of terrorist property, and applying to that the provisions of section 8 of the Prevention of Terrorism Act 2001. The problem will be addressed in the new draft legislation on terrorism, using the Commonwealth Model Bill on Terrorism. It is intended that the draft Bill will contain the following provision:

Provision of Services for Commission of Terrorist Acts

1. Every person who, directly or indirectly, provides or makes available, financial or other related services—

(a) intending that they be used, in whole or in part, for the purpose of committing or facilitating the commission of, a terrorist act or for the purpose of benefiting any person who is committing or facilitating the commission of, a terrorist act; or

(b) knowing that in whole or part, they will be used by, or will benefit, a terrorist group,

commits an offence and shall on conviction, be liable to imprisonment for a term not exceeding (10) years.

Subparagraph 1(c):

Money Laundering (Prevention) Act 1996

The particular provisions which deal with the freezing of funds are outlined in section 19 of the Money Laundering (Prevention) Act 1996 as amended by the Money Laundering (Prevention) (Amendment) Act 2001 and the Money Laundering (Prevention) (Amendment) Act 2002.

Section 19 provides as follows:

"19 (1) where a person (referred to in this Part as "the defendant".

(a) has been convicted of a money laundering offence; or
(b) has been, or is about to be changed with a money laundering offence; or
(c) is suspected of having engaged in money laundering activity

the Supervisory Authority may apply to the High Court for an Order freezing property in which there is a reasonable suspicion that the defendant has an interest.

(1A) An application under this section shall be made *ex-parte*.

(1B) The Supervisory Authority shall in accordance with the manner prescribed in section 28D, give at least fourteen days notice of the order under subsection (1A) to the owner of the property the subject of the order and to any other person the Supervisory Authority has reason to believe may have an interest in the property.

(2) Subject to subsection (3) an application referred to in subsection (1) may be made against one or more of the following:

(a) specified property of the defendant;

(b) all the property of or in the name of the defendant; (including property acquired after the making of the order);

(c) all the property of or in the name of the defendant (including property acquired after the making of the order) other than specified property;

(d) specified property of a person other than the defendant.

(3) Where:

(a) the money laundering offence of which the defendant has been convicted or charged or money laundering activity in which the defendant is suspected of having been engaged falls within the definition of subparagraph (i) of the definition of money laundering offence the property in respect of which an application for a freezing order may be made pursuant to subsection (2) may be located in Antigua and Barbuda or anywhere else in the world;

(b) the money laundering offence of which the defendant has been convicted or charged or money laundering activity in which the defendant is suspected of having been engaged falls within the definition of subparagraph (ii) of the definition of money laundering offence the property in respect of which an application for a freezing order may be made pursuant to subsection (2) may only be located in Antigua and Barbuda.

(4) Where the Supervisory Authority applies to the High Court for an order under this section the High Court may, subject to section 19A, by order:

(a) direct that the property or such part of the property as is specified in the order , is not to be disposed of or otherwise dealt with, by any person, except in such manner and in such circumstances (if any) as are specified in the order; and

(b) if the High Court is satisfied that the circumstances so require direct a trustee to take custody and control of the property, or of such part of the property as is specified in the order.

(5) The High Court may without limiting the generality of its power under this section to impose such conditions upon a freeze order as it sees fit, make provision for meeting, out of property or a specified part of the property, all or any of the following:

(a) the defendant's reasonable living expenses (including the reasonable living expenses of the defendant's dependents (if any) and reasonable business expenses;

(b) the defendant's reasonable expenses in defending a proceeding under this Act or any criminal charge to which this proceeding relates.

(6) The following restrictions apply to orders making provision for the payment of expenses of the defendant or dependants of the defendant pursuant to subsection (5):

(a) no provision is to be made for expenses except to the extent (if any) that the High Court is satisfied that the defendant cannot meet the expenses concerned out of the defendant's unfrozen property;

(b) no provision is to be made in relation to any particular interest in frozen property if a reasonable suspicion exists that the interest is unlawfully acquired property;

(c) no provision is to be made unless a statement pursuant to section 19 B (1) (d) has been filed in the High Court;

(d) no provision is to be made unless the High Court is satisfied that the defendant has taken all reasonable steps to bring all of his or her interests in property within the jurisdiction of the Court;

(e) any provision for the payment of expenses must specify the particular interest in property out of which the expenses concerned may be met.

(7) For the purpose of this section a defendant's unfrozen property is any interest in property of the defendant:

(a) that is not subject to a freeze order under this Act; or

(b) that the High Court is satisfied is not within the Court's jurisdiction (whether or not it is subject to a freeze order under this Act).

(8) Where a trustee is given a direction under subsection (4) (b) in relation to property, the trustee may do anything that is reasonably necessary for the purpose of preserving the property including without limiting the generality of this:

(a) becoming a party to a civil proceeding affecting the property;

(b) ensuring that the property is insured;

(c) if the property consists, wholly or partly of securities or investments realising or otherwise dealing with securities or investments; and

(d) if the property consists wholly or partly of a business:

(i) employing or terminating the employment of persons in the business; and

(ii) doing any other thing that is necessary or convenient for carrying on the business on a sound commercial basis;

(e) if the property consists wholly or partly of shares the trustee may exercise the rights attaching to the shares as if he or she were the registered holder of the shares to the exclusion of any rights held by the registered holder.

(9) The Supervisory Authority may direct a financial institution in writing to freeze property for a period of up to seven days whilst it makes an application pursuant to subsection (1) for a freeze order.

19A (1) Where an application is made pursuant to paragraph 19 (1) (a), the High Court shall make a freeze order.

(1A) Where an application is made pursuant to paragraph 19 (1) (b) the High Court shall not make a freeze order unless:

(a) the application for the order is supported by an affidavit of an authorized officer stating that he suspects that the defendant committed the offence; and

(b) the court is satisfied having regard to the matters contained in the affidavit, that there are reasonable grounds for having that suspicion.

(1B) Where an application is made pursuant to paragraph 19 (1) (c) the High Court shall not make a freeze order unless:

(a) the application for the order is supported by an affidavit of an authorized officer stating that he suspects that the defendant has engaged in money laundering activity; and

(b) the court is satisfied, having regard to the matters contained in the affidavit, that there are reasonable grounds for holding that suspicion.

(2) Where a freeze order is made upon the basis that -

(a) the defendant has been charged or is about to be charged with a money laundering offence; or

(b) the defendant is suspected of having engaged in money laundering activity;

the freeze order will cease to have effect thirty (30) days after it is made unless by that time the defendant has been charged with a money laundering offence; or any application for a civil forfeiture order or civil proceeds assessment order has been filed.

(3) Where the application seeks a freeze order against the specified property or a person other than the defendant the court shall not make a freeze order against the property unless:

(a) the application is supported by an affidavit of an authorized officer stating that:

(i) the officer suspects that the property is an instrumentality; or

(ii) the officer suspects that defendant has an interest in the property; and

(b) the court is satisfied, having regard the matters contained in the affidavit, that there are reasonable grounds for holding that suspicion.

(4) The High Court may make a freeze order in respect of property whether or not there is any risk of the property being disposed of, of otherwise dealt with in such manner as would defeat the operation of this Act.

(5) The Supervisory Authority shall in accordance with the manner prescribed in section 28 D, give at least fourteen (14) days notice of an order made pursuant to subsection (4) to the defendant and to any other person the Supervisory Authority has reason to believe may have an interest in the property.

Procedure for Freezing funds

Where a person is convicted of a money laundering offence or is charged or about to be charged with a money laundering offence or is suspected of having engaged in money laundering activity then the Supervisory Authority (Office of National Drug Control and Money Laundering Policy) will make an application to a Judge of the High Court. The application is made *ex parte*. Where the defendant is convicted of a money laundering offence the Court must make the freeze order. Where however the person is not convicted of a money laundering offence the Court will only make a freeze order where the Supervisory Authority satisfies the Court of the conditions of the section 19 A (outlines above).

Section 19 (9) of the Money Laundering Prevention Act makes provision for the Supervisory Authority to direct a financial institution to freeze the property of a person who has been convicted of a money laundering offence; or has been, or is about to be charged with a money laundering offence or is suspected of having engaged in money laundering activity. A freeze order made under this section is valid for a period of seven (7) days. If the Supervisory Authority is desirous of the freeze order continuing an application must be made to the High Court in accordance with subsection (1).

Proceeds of Crime Act 1993

The provisions relating to freezing of funds under the Proceeds of Crime Act 1993 are outlined in section 31 – 38 of the Act. The sections read as follows:

31. (1) Where a person, (in this section and section 32 called "the defendant")-

(a) has been convicted of a scheduled offence; or

(b) has been charged with a scheduled offence;

the Director of Public Prosecutions may apply to the Court for a restraining order against any realizable property held by the defendant or specified realizable property held by a person other than the defendant.

(2) An application for a restraining order may be made *ex parte* and shall be in writing and be accompanied by an affidavit stating –

(a) where the defendant has been convicted of a scheduled offence, the scheduled offence for which the defendant was convicted, the date of the conviction, the Court before which the conviction was obtained and whether an appeal has been lodged against the conviction;

(b) where the defendant has not been convicted of a scheduled offence, the scheduled offence for which he is charged and the grounds for believing that the defendant committed the offence;

(c) a description of the property in respect of which the restraining order is sought;

(d) the name and address of the person who is believed to be in possession of the property;

(e) the grounds for the belief that the property is tainted property in relation to the offence;

(f) the grounds for the belief that the defendant derived a benefit directly or indirectly for the commission of the offence;

(g) where the application seeks a restraining order against property of a person, other than the defendant, the grounds for the belief that property is tainted property in relation to the offence and is subject to the effective control of the defendant;

(h) the grounds for the belief that a forfeiture order or a confiscation order may be or is likely to be made under this Act in respect of the property.

32. (1) Subject to this section, where the Director of Public Prosecutions applies to the Court for a restraining order against property and the Court is satisfied that –

(a) the defendant has been convicted of a scheduled offence, or has been charged with a scheduled offence;

(b) there are reasonable grounds for believing that the defendant committed the offence, where the defendant has not been convicted of a scheduled offence;

(c) there is reasonable cause to believe that the property is tainted property in relation to an offence or that the defendant derived a benefit directly or indirectly from the commission of the offence;

(d) there are reasonable grounds for believing that the property is tainted property in relation to an offence and that the property is subject to the effective control of the defendant, where the application seeks a restraining order against property of a person other than the defendant; and

(e) there are reasonable grounds for believing that a forfeiture order or a confiscation order is likely to be made under this Act in respect of the property;

the Court make an order,

(f) prohibiting the defendant or any person from disposing or, otherwise dealing with, the property or such part thereof or interest therein as is specified in the order, except in such manner as may be specified in the order; and

(g) at the request of the Director of Public Prosecutions, where the Court is satisfied that the circumstances so require-

(i) directing the Public Trustee or such other person as the Court may appoint to take custody of the property or such part thereof as is specified in the order and to manage or otherwise deal with all or any part of the property in accordance with the directions of the Court; and

(ii) requiring any person having possession of the property to give possession thereof to the Public Trustee or to the person appointed under sub-paragraph (i) to take custody and control of the property.

(2) Until a Public Trustee is appointed the Registrar, Deputy Registrar or the Assistant Registrar of the Supreme Court shall perform the duties of Public Trustee under this Act.

(3) An order under subsection (1) may be made subject to such conditions as the Court thinks fit and, without limiting the generality of this, may make provision for meeting, out of the property or a specified part of the property, all or any of the following –

(a) the person's reasonable living expenses (including the reasonable living expenses of the person's dependants (if any) and reasonable business expenses;

(b) the person's reasonable expenses in defending the criminal charge and any proceedings under this Act.

(4) In determining whether there are reasonable grounds for believing the property is subject to effective control of the defendant the Court may have regard to the matters referred to in section 23 (2).

(5) Where the Public Trustee or such other person appointed under subsection (1) (g) (i) is given a direction in relation any property, the Public Trustee or that other person may apply by summons to the Court for directions or any question respecting the management or preservation of the property under his control.

(6) An application under subsection (4) shall be served upon all persons interested in the application or such of them as the Court thinks expedient and all such persons shall be at liberty to appear at the hearing and be heard.

(7) The Public Trustee or such other person appointed under subsection (1) (g) (i) in acting on directions given by the Court shall be deemed to have discharged his duty in the subject matter of the application.

33.

(1) Before making an order under section 32, the Court may require the Crown to give such undertakings as the Court considers appropriate with respect to the payment of damages or costs, or both, in relation to the making and execution of the order.

(2) For the purposes of this section, the Director of Public Prosecutions may, after consultation with the Attorney-General, on behalf the Crown, give to the Court such undertakings with respect to the payment of Damages or costs, or both, as are required by the Court.

34. Before making a restraining order, the Court may require notice to be given to, and may hear, any person who, in the opinion of the Court, appears to have an interest in the property, unless the Court is of the opinion that giving such notice before making the order would result in the disappearance, dissipation or reduction in value of the property.

35. A copy of a restraining order shall be served on a person affected by the order in such manner as the Court directs or as may be prescribed by rules of court.

36. (1) A copy of a restraining order which affects lands, tenements or hereditaments in Antigua and Barbuda shall be registered with the Registrar of the Supreme Court in accordance with the Reciprocal Enforcement of Judgements Act, and with the Registrar of Lands.

(2) A restraining order is of no effect with respect to registered and unless it is registered as a charge under the Registered Land Act.

(3) Where particulars of a restraining order are recorded or registered, as the case may be, in accordance with the Reciprocal Enforcement of Judgements Act or the Registered Land Act, a person who subsequently deals with the property shall, for the purposes of section 37, be deemed to have notice of the order at the time of the dealing.

37. (1) A person who knowingly contravenes a restraining order by disposing of, or otherwise dealing with, property that is subject to the restraining order commits an indictable offence punishable upon conviction –

(a) a fine of $100,000 or imprisonment for a period five (5) years or both, in the case of a natural person; or

(b) a fine of $500,00, in the case of a body corporate.

(2) Where a restraining order is made against property and the property is disposed of, or otherwise dealt with, in contravention of the restraining order, and the disposition or dealing was not for sufficient consideration or not for good faith and without notice, the Director of Public Prosecutions may apply to the Court that made the restraining order for an order that the disposition or dealing be set aside.

(3) Where the Director of Public Prosecutions makes an application under subsection (2) in relation to a disposition or dealing, the Court may –

(a) set aside the disposition or dealing as from the day on which the disposition or dealing took place; or

(b) set aside the disposition or dealing as from the day of the order under this subsection and declare the respective rights of any persons who acquired interests in the property on, or after the day on which the disposition or dealing took place, and before the day of the order under this subsection.

38. A restraining order remains in force until -

(a) it is revoked or varied under section 39;

(b) it ceases to be in force under section 40; or

(c) a forfeiture order or a confiscation order, as the case may be, is made in respect of property which is the subject of the order; or

(d) the property which is the subject of the order becomes forfeited to the Crown under any other enactment.

Procedure

Where a person has been convicted or charged with an offence contained in the Schedule to the Act the Director of Public Prosecutions may apply to a judge of the High Court for a restraining order against property held by the person and or property held by a third person being a gift given to the third person by the person connected or charged. The application may be made *ex parte*. A list of the offences contained in the Schedule is contained in Annex 3.

Freezing Funds on the Request of Another Country

The Money Laundering (Prevention) Act 1996

Under section 23 an order may be made to freeze funds at the request of another Country with which there is a mutual legal assistance in criminal matters treaty.

The Mutual Legal Assistance in Criminal Matters Act 1993

Under section 28 of the Act an order ay be made freezing funds at the request of a Commonwealth Country or a Country with which there is a mutual legal assistance in criminal matters treaty.

Subparagraph 1(d):

Under section 8 Prevention of Terrorism Act 2001 any person who becomes aware that he has possession of or control over any funds or other assets in which a terrorist or terrorist organization has an interest is required to retain and maintain control over them and to report their existence to the Supervisory Authority. It follows that funds and economic resources collected for religious, charitable or cultural purposes, which are then discovered to be diverted to terrorist purposes must be reported to the Supervisory Authority.

Section 7 Prevention of Terrorism Act 2001 applies to banks and financial institutions and section 8 applies to individuals in a similar manner as section 7 does. Section 8 requires all persons, including individuals to take notice of the names of terrorists and terrorist organizations published in the official Gazette by the Supervisory Authority under section 3. Any individual who does business with any persons or organization specified in the

declaration published in the official Gazette is presumed to have knowledge that he is transacting business with a terrorist or terrorist organization and at that point in time in possession and under the control of assets belonging to a terrorist or terrorist organization.

The Supervisory Authority has broad powers under section 9 of the Act to investigate, review and prohibit any transaction in foreign exchange, currency or security or any transfer or credit or payment by, through or to any banking institution, to the extent that such transfers or payments involve any interest in any foreign country or national thereof this provision is wide enough to enable the Supervisory Authority to stop diversion of economic resources collected in Antigua and Barbuda for other purposes, including the financing of terrorism and terrorist organizations.

Section 8 Prevention of Terrorism Act 2001 applies to persons, including individuals, lawyers and other intermediaries who become aware that they are holding or have possession of funds belonging to terrorist or terrorist organizations. In the Prevention of Terrorism Act 2001 "persons" is defined to mean individual and entity.

Under the Friendly Societies Act, Cap. 184, friendly societies are defined as societies for the purpose of providing relief to members by voluntary subscriptions of the members with or without the aid of donations. Misappropriation of funds are dealt with in section 82(2) which states:

> "If any person obtains possession by false representation or imposition of any property of a society or branch, or withholds or misapplies any such property in his possession, or willfully applies any part thereof to purposes other than those expressed or directed in the rules of the society or branch and authorized by this Act, he shall, on such complaint as is in this section mentioned, be liable to a penalty not exceeding one thousand dollars, and costs, and all sums of money applied improperly, and in default of such delivery or repayment, or of the payment of such penalty and costs as aforesaid, to be imprisoned, with or without hard labour, for any term not exceeding three months."

Reporting suspicious activities:

Section 13(1) Money Laundering (Prevention) Act 1996 requires all financial institutions to pay special attention to all complex, unusual or large business transactions, whether completed or not, and to all unusual patterns of transactions and to insignificant but periodic transactions, which have no apparent economic or lawful purpose and to relations and transactions with persons, including business and other financial institutions, from countries that have not adopted a comprehensive anti money laundering programme.

Section 13(2) Money Laundering (Prevention) Act 1996 requires financial institutions to promptly report all transactions that could constitute or be related to money laundering.

Under the Money Laundering (Prevention) Act 1996, intermediaries such as lawyers, notaries and accountants are required to report suspicious transactions/activities only when they act in the capacity of a financial institution as listed in the First Schedule to the Money Laundering (Prevention) Act 1996 (See Annex 2). This would include, for example, when acting on instructions to do real estate work or trust business on behalf of a client.

In addition, Regulation 8 Money Laundering (Prevention) Regulations 1999 requires every financial institution upon contact to transact business on behalf of another person by an intermediary acting in a professional capacity as attorney, notary public, chartered accountant, certified public accountant,

auditor or nominee of a company, to establish the true identity of the applicant or the person on behalf of whom the intermediary acts, and obtain evidence sufficient to verify the nature of the business and the source of the funds.

Penalties:
Under section 13(6) Money Laundering Prevention Act the penalty for failing to report a suspicious transaction is $50,000 (Eastern Caribbean Currency) and/or 6 months imprisonment. In addition the licence of the financial institution may be suspended or revoked by the Regulatory Authority.

Subparagraph 2(a):

There are no specific laws to prevent recruitment to terrorist groups in or outside of Antigua and Barbuda. The practical methods of preventing such recruitment are denial of entry into the country or the granting of status to reside to suspected terrorists: the Immigration Department has been provided with a copy of the UN and FBI lists of terrorists, and careful checks at all border entries can be made and suspects closely monitored. The Immigration Department remains on alert and can report arrivals of any members of suspected groups that give terrorist concern.

Possession without a licence of firearms and explosives are illegal in Antigua and Barbuda. In the case of firearms, a licence has to be issued by the Commissioner of Police. All automatic weapons are banned to the general public. Firearms are controlled by the Firearms Act, Cap. 171. Explosives are controlled by the Explosives Act, Cap. 159. The exportation of arms is prohibited by proclamation of the Cabinet under the Exportation of Arms and Warlike Stores Act, Cap. 160. The illegal import and export of weapons is also dealt with under the Customs and Excise Act 1952 as amended. Enforcement is done by customs officers, airport security, members of the Antigua and Barbuda Defence Force, and the Immigration Department. The overall risks are assessed by the Security Counsel of Antigua and Barbuda, the Smuggling Committee and the Inter Governmental Task Force. Antigua and Barbuda has recently ratified the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Material.

Subparagraph 2(d) and (e):

The Prevention of Terrorism Act 2001 does not address the issues raised in these subparagraphs. The new Act would contain provisions to address these issues. The following provision of the Commonwealth Model Bill would be adopted –
Sections 14, 15, and 16.

Incitement, Promotion or Solicitation of Property for the Commission of Terrorist Act

14. Every person who, knowingly -

(a) incites or promotes the commission of a terrorist act;

(b) incites or promotes membership in terrorists group; or

(c) solicits property for the benefit of a terrorist group or for the commission of a terrorist act

commits an offence and shall on conviction, be liable to imprisonment for a period of term not exceeding ten (10) years.

15. Every person who being -

(a) the owner, occupier, lessee or person in charge of any building, premises, room, or place knowingly permits a meeting of persons to be held in that building, premises, room or place;

(b) the owner, charterer, lessee, operator, agent, or master of a vessel or the owner, charterer, lessee, operator, agent or pilot in charge of an air craft knowingly permits the vessel or aircraft to be used;

for the purposes of committing an offence under section 14, or planning, promoting or supporting the commission of a terrorist act, commits an offence and shall on conviction, be liable to imprisonment for a term not exceeding ten (10) years.

Comspiracy to Commit Offences under this Act

16.(1) Every person who conspires with another person in Antigua and Barbuda to do any act in any place outside Antigua and Barbuda, being an act, which if done in Antigua and Barbuda would have constituted an offence under this Act shall be deemed to have conspired to do that Act in Antigua and Barbuda.

(2) Every person who conspires with another person in a place outside Antigua and Barbuda to do any act in Antigua and Barbuda which constitutes an offence under this Act shall be deemed to have conspired in Antigua and Barbuda to do that act.

The Prevention of Terrorism Act 2001 does not amend the Suppression of Terrorism At 1993. The Suppression of Terrorism Act makes provision for offences related to acts of terror such as murder, wounding and destruction of property. Such offences are not regarded as offences of a political character and are extraditable. It also makes such offences extraterritorial offences.

Subparagraph 2(f):

The timeframe for judicial assistance in criminal investigations depends on the urgency of the matter. Restraint of funds in a financial institution can be effected immediately upon an MLAT Request by the Supervisory Authority by invoking section 19(9) Money Laundering (Prevention) Act 1996 which remains in force for 7 days while a formal application is make to the court for an order. Matters related to criminal intelligence addressed to the Competent Authority or to the Supervisory Authority or the Office of National Drug and Money Laundering Control Policy by the appropriate authority can be responded to within days if not hours.

Subparagraph 3(c):

Antigua and Barbuda has concluded Mutual Legal Assistance in Criminal Matters Treaties with the United States, the United Kingdom and Canada. Antigua and Barbuda has enacted a Mutual Legal Assistance in Criminal Matters Act which makes provision for legal assistance to be granted to all Commonwealth Countries and any Country with which Antigua and Barbuda has a treaty. Antigua and Barbuda has ratified

the Organisation of American States Convention on Mutual Legal Assistance this assistance could be granted to all OAS Countries.

Subparagraph 3(d):

Antigua and Barbuda is not yet a party to the following Conventions:

(a) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention of the of the Convention of the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24th February, 1988.

(b) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation done at Rome on 10th March, 1988.

(c) Protocol for the Suppression of Unlawful Acts against Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10th March, 1988.

(d) Convention on the Marking of Plastic Explosives for the Purpose of Detection signed at Montreal, 1st March, 1991.

(e) International Convention for the Suppression of Terrorist bombings, adopted by the General Assembly of the United Nations on 15th December, 1997.

Resolutions would soon be laid before the Parliament of Antigua and Barbuda seeking approval to ratify the abovementioned Conventions. These resolutions would be laid by June 30, 2003.

The Hijacking Act Cap.200 was passed in 1975 to give effect to the provisions of the Convention for the Suppression of Unlawful Seizure of Aircraft. The Prevention of Terrorism Act 2001 contains provisions to give effect to the International Convention for the Suppression of the Finance of Terrorism, adopted by the General Assembly of the United Nations and the Inter-American Convention Against Terrorism.

The Legal Department is currently reviewing the provisions of the Conventions to determine the legislative measures that should be put in place to give full effect to the provisions of the Conventions.

The Office of National Drug and Money Laundering Policy deals with matters relating to illegal drugs, money laundering, organized crime and terrorism.

Subparagraph 3(f):

The prevention of the grant of asylum to suspected terrorists can presently be dealt with under section 3 of the Undesirable Persons Expulsion Act Cap 450. Section 3 empowers the Cabinet of Antigua and Barbuda to make an expulsion order requiring any person not born in Antigua and Barbuda to leave the Country if it is expedient for the peace and good order of the Country that an expulsion order should be made. Further section 6 of the Immigration Act Cap. 208 empowers the Governor-General to by order prohibit the entry into Antigua and Barbuda any alien or class of aliens.

Subparagraph 3(g):

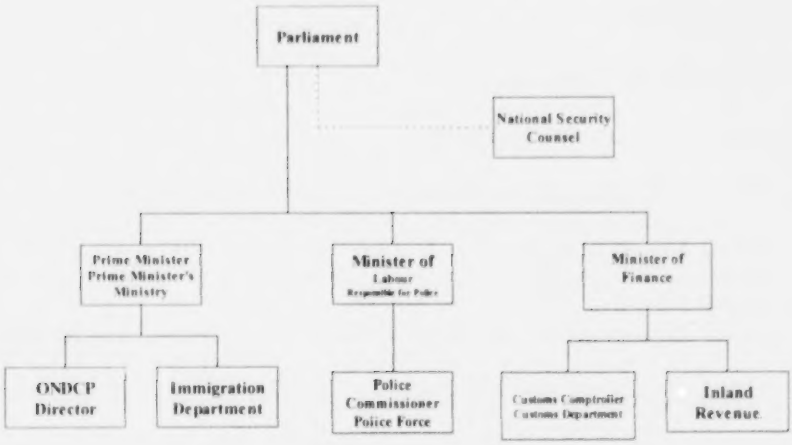
No, claims of political motivation are not recognized as grounds for refusing extradition under the Extradition Act (No. 12 of 1993). The Suppression of Terrorism Act 1993 provides that no offences to which the Act applies (See Annex 1) shall be regarded as offences of a political character, and also no proceedings in respect of offences to which the Act applies shall be regarded as a criminal matter of a political character or a criminal proceedings of a political character.

Other matters

Organizational Chart (see below). The various Ministries and Departments liaise and exchange information with each other on a regular basis. In order to formalize these arrangements of internal cooperation, a joint Memorandum of Understanding is being drafted.

ANTIGUA AND BARBUDA

Administrative Machinery for Prevention of Terrorism



ANNEX 1

List of Scheduled Offences under the Suppression of Terrorism Act 1993

1. Murder
2. Manslaughter
3. Rape
4. Kidnapping, abduction
5. False imprisonment
6. Assault occasioning actual bodily harm or causing injury
7. Willful fire-raising
8. Offence under any of the following provisions of the Offences Against the Person Act (Cap. 58)
   (a) Section 17 (wounding with intent to cause serious bodily harm);
   (b) Section 19 (causing grievous bodily harm);
   (c) Section 20 (Attempting to choke etc in order to commit or assist in the committing of any indictable offence);
   (d) Section 21 (using chloroform etc. to commit or assist in committing any indictable offence);
   (e) Section 22 (maliciously administering poison etc., so as to endanger life or inflict grievous bodily harm);
   (f) Section 23 (maliciously administering poison etc. with intent to injure etc.)
9. An offence under the following provisions of the Offences Against the Person Act (Cap. 58)—
   (a) section 48 (abduction of any woman)
   (b) section 51 (child stealing)
10. Use of explosives to commit felonies under the Offences Against the Person Act (Cap. 58)
   (a) section 27 (causing bodily injury by gun powder);
   (b) section 28 (causing gun powder to explode or sending any person an explosive substances with intent to cause grievous bodily harm);
   (c) section 29 (placing gun powder near a building with intent to do bodily injury to any person);
11. The following offences under the Firearms Act 1972 (No. 11 of 1972)
   (a) an offence under section 12 (possession of firearms or ammunition with intent to injure);
   (b) an offence under section 13 (use of firearms or ammunition to resist arrest);
12. An offence under section 2, 3, 4, 8, 9 and 10 of the Malicious Damage Act (Cap. 51).
13. An offence under the Hijacking Act, 1975 (No. 21 of 1975)
14. An offence of attempting to commit any offence mentioned in a preceding paragraph of this Schedule.

ANNEX 2

List of Activities of Financial Institutions (First Schedule of the Money Laundering(Prevention) Act 1996)

1. "Banking business" and "financial business" as defined in the Banking Act and the Financial Institutions (Non-Banking) Act;
2. "International offshore banking business" as defined in the International Business Corporation Act;
3. Venture risk capital;
4. Money transmission services;
5. Issuing and administering means of payments (e.g. credit cards, travelers; cheques and bankers' drafts)
6. Guarantees and commitments
7. Trading for own account or for account of customers in:—
    (a) money market instruments (e.g., cheques, bills, certificates of deposits, commercial paper etc.)
    (b) foreign exchange
    (c) financial and commodity-based derivative instruments (e.g., futures, options, interest rate and foreign exchange instruments etc.);
    (d) transferable or negotiable instruments
8. Money brokering;
9. Money lending and pawning;
10. Money exchange (e.g., casa de cambio);
11. Real property business;
12. Credit unions;
13. Building societies;
14. Trust business;
15. Casinos;
16. Internet gambling;
17. Sports betting;

ANNEX 3

List of Scheduled Offences under the Proceeds of Crime 1993

1. Possession of controlled drugs for the purpose of supply, contrary to section 5(3) of the Misuse of Drugs Act, 1973 (No. 21 of 1973).

2. Trafficking in controlled drugs, contrary to section 19A of the Misuse of Drugs Act, 1973 (No. 21 of 1973).

3. Assisting another to retain the benefit of drug trafficking, contrary to section 19B of the Misuse of Drugs Act, 1973 (No. 21 of 1973).

4. Engaging in organized fraud contrary to section 63 or guilty of a public fraud offence under sections 18, 19, 20, 21, 22 and 23 of the Larceny Act. (Cap. 44)

5. Money laundering (in relation to paragraphs 1, 2, 3 and 4 of this Schedule), contrary to section 61 of this Act.

6. Possession of property derived from unlawful activity (in relation to paragraphs 1, 2, 3 and 4 of this Schedule), contrary to section 62 of this Act.